

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

RICHARD LEE RADCLIFFE,

Petitioner,

Case No. 16-11705

Hon. Matthew F. Leitman

v.

JODI DEANGELO-KIPP,

Respondent.

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**ORDER VACATING THE ORDER FOR RESPONSIVE PLEADING  
(ECF NO. 8) AND DISMISSING THE HABEAS PETITION (ECF NO. 1)**

On May 11, 2016, petitioner Richard Lee Radcliffe filed a *pro se* application for the writ of habeas corpus under 28 U.S.C. § 2254. The habeas petition challenged Mr. Radcliffe's state convictions for two counts of assault with intent to commit murder, Mich. Comp. Laws § 750.83, three counts of assault with a dangerous weapon, Mich. Comp. Laws § 750.82, one count of discharging a firearm in an occupied structure, Mich. Comp. Laws § 750.234b(2), and one count of possessing a firearm during the commission of a felony, Mich. Comp. Laws § 750.227b(1). On June 16, 2016, the Court ordered the State to file a responsive pleading by December 16, 2016. On November 30, 2016, the State filed a "Suggestion of Death" and asked the Court to dismiss the habeas petition because Mr. Radcliffe died on October 22, 2016.

Article III of the United States Constitution limits the judicial power of federal courts to cases and controversies. U.S. CONST. art. III, § 2. “[T]his Court lacks jurisdiction to consider any case or issue that has ‘lost its character as a present, live controversy’ and thereby becomes moot.” *Demis v. Snizek*, 558 F.3d 508, 512 (6th Cir. 2009) (quoting *Hall v. Beals*, 396 U.S. 45, 48 (1969)). The death of a habeas petitioner prior to the District Court’s decision renders his or her habeas petition moot. *Lockhart v. McCree*, 476 U.S. 162, 168 n.2 (1986); *Beach v. Humphries*, 914 F.2d 1494, 1990 WL 140574 (6th Cir. Sept. 21, 1990) (unpublished). Accordingly,

**IT IS HEREBY ORDERED** that the order for responsive pleading (ECF No. 8) is **VACATED**.

**IT IS FURTHER ORDERED** that the petition for writ of habeas corpus (ECF No. 1) is **DISMISSED** as moot.

s/Matthew F. Leitman  
MATTHEW F. LEITMAN  
UNITED STATES DISTRICT JUDGE

Dated: December 2, 2016

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on December 2, 2016, by electronic means and/or ordinary mail.

s/Holly A. Monda  
Case Manager  
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